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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,662	03/19/2001	Thomas W. Baker	Baker 8	9406

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EXAMINER	
BOUTAH, ALINA A	

ART UNIT	PAPER NUMBER
2143	

NOTIFICATION DATE	DELIVERY MODE
11/30/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@hittgaines.com

Office Action Summary	Application No.	Applicant(s)	
	09/811,662	BAKER, THOMAS W.	
	Examiner	Art Unit	
	Alina N Boutah	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 October 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This action is in response to Applicant's amendment filed October 31, 2007. Claims 1-20 are pending in the present application.

Claim Rejections - 35 USC § 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,635,088 issued to Hind et al. (hereinafter referred to as Hind) in view of USPN 6,763,499 issued to Friedman et al (hereinafter referred to as Friedman).

Regarding claim 1, Hind teaches a method of processing a received message at a receiving device, the method comprising:

receiving a message expressed in a non-negotiated language (abstract; figures 3A-3B) said message having at least one tag;

analyzing said at least one tag (col. 1, lines 15-34; lines 48-61, line 57 to col. 2, line 2); and

processing said message when said analyzing determines said receiving device can process said message (col. 1, lines 48-61).

However, Hind does not explicitly teach analyzing the at least one tag to determine if said receiving device can process said message. In an analogous art, Friedman teaches analyzing a tag and determining if the device can process a message (col. 3, lines 17-19, 36-45 and 59-62). At the time the invention was made, one of ordinary skill in the art would have been motivated to determine if a receiving device can process a message in order to allow only data capable of being analyzed to pass though the system, therefore minimizing the processing time.

Regarding claim 2, Hind fails to teach the method of claim 1, wherein said analyzing includes comparing said at least one tag with a table of said receiving device and determining said message can be processed if said table includes said at least one tag. Friedman teaches comparing a tag with a table of received device and determining a message if the table includes at least one tag (col. 14, lines 10-40). At the time the invention was made, one of ordinary skill in the art would have been motivated analyze by comparing at least one tag with a table of receiving devices in order to ensure that the data is consistent with the data in the table, thus allowing only data capable of being analyzed to pass though the system, therefore minimizing the processing time.

Regarding claim 3, Hind teaches the method of claim 1, wherein the message comprises: a start tag and an end tag (col. 2, lines 27 and 57).

Regarding claim 4, Hind teaches the method of Claim 3, wherein the message further comprises data encapsulated between said start and end tag (col. 2, lines 56-67).

Regarding claim 5, Hind teaches the method of claim 1, wherein said step of processing the message, comprises executing an instruction associated with the message (col. 2, lines 24-55).

Claims 6-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hind in view of USPN 6,738,803 issued to Dodrill et al (hereinafter referred to as Dodrill).

Regarding claim 6, Hind teaches a method of processing received messages, the method comprising:

receiving a message in a non-negotiated language (abstract; figures 3A-3B);

parsing said messages to determine if said messages are decipherable (col. 1, lines 15-34, line 62 to col. 2, line 23); and

processing those messages determined to be decipherable (col. 1, lines 48-61).

However, Hind does not explicitly teach receiving the message without employing a fixed protocol. In an analogous art, Dodrill teaches receiving the message without employing a fixed protocol (col. 3, lines 9-19). At the time the invention was made, one of ordinary skill in the art would have been motivated to receive messages without employing a fixed protocol in order to allow a device to access any server.

Regarding claim 7, Dodrill teaches the method of claim 6, further comprising the step of disregarding any messages not decipherable (col. 3, lines 9-19).

Regarding claim 8, Hind teaches the method of claim 6, wherein the step of processing comprises executing an instruction associated with at least one of said comprehended messages (col. 2, lines 24-55).

Regarding claim 9, Hind teaches the method of Claim 6, wherein the step of processing comprises storing data associated with at least one of said comprehended messages (col. 3, lines 23-48).

Regarding claim 10, Hind teaches the method of claim 6, wherein said comprehended messages are written in a human readable text message (col. 2, lines 23-28).

Regarding claim 11, Hind teaches the method of Claim 8, wherein said executing an instruction comprises displaying information associated with at least one of said deciphered messages (col. 12, lines 14-19).

Regarding claim 12, Hind teaches the method of Claim 6, wherein at least one of the messages comprises a start tag, an end tag and data encapsulated between said tags (col. 2, lines 23-55).

Regarding claim 13, Hind teaches the method of Claim 6, wherein at least one of the messages is written in an Extensible Markup Language (abstract).

Claims 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hind in view of Friedman in further view of USPN 6,738,803 issued to Dodrill et al (hereinafter referred to as Dodrill).

Regarding claim 14, Hind teaches a system of a receiving device for receiving at least one message expressed in a non-negotiated language, comprising:

a tag recognizer configured to analyze tags in the message (col. 1, lines 15-61), said analyzing occurring at said receiving device; and

a controller configured to process said message based on said determination of said tag recognizer (col. 1, lines 15-34, line 62 to col. 2, line 23).

However, Hind fails to explicitly teach a tag recognizer to determine if said receiving device is capable of processing said message by analyzing tags in said message, said analyzing occurring at said receiving device configured to receive said non-negotiated language message without employing a fixed protocol.

In an analogous art, Friedman teaches analyzing a tag and determining if the device can process a message (col. 3, lines 17-19, 36-45 and 59-62). At the time the invention was made, one of ordinary skill in the art would have been motivated to determine if a receiving device can process a message in order to allow only data capable of being analyzed to pass though the system, therefore minimizing the processing time.

In another analogous art, Dodrill teaches disregarding an unrecognized message (abstract; col. 4 line 62 to col. 5, line 27). At the time the invention was made, one of ordinary skill in the art would have been motivated to disregard an unrecognized message in order to allow only

messages that are capable of being discerned to pass through the system, therefore minimizing processing time

Regarding claim 15, Hind teaches the system of Claim 14, wherein the message is a readable text language (col. 2, lines 23-55).

Regarding claim 16, Hind teaches the system of Claim 14, wherein at least one message includes a start tag and an end tag (col. 2, lines 23-55).

Regarding claim 17, Hind teaches the system of Claim 14, wherein said system is a personal digital assistant (PDA) for receiving the message in a wireless environment whereby no fixed handshaking protocol is used to receive the message (col. 3, lines 8-10).

Regarding claim 18, Hind teaches the system of Claim 17, wherein said PDA displays information to a user to the extent the message is discerned by said parser (col. 3, lines 1-48).

Regarding claim 19, Hind teaches the system of Claim 14, Hind teaches wherein the message is written in an Extensible Text Markup Language (col. 4, lines 42-64).

Regarding claim 20, Dodrill teaches the system of Claim 14, wherein said at least one message includes multiple portions having tags associated therewith, said tag recognizer configured to determine if each of said multiple portions are decipherable by analyzing said

associated tags and said controller configured to process or disregard said each of said multiple portions based on said decipherable determination (figures 5A and 8).

Response to Arguments

Applicant's arguments have been considered but not found persuasive.

In view of Supreme Court Decision in KRS International Co. v. Teleflex Inc., 550 U.S. -, 82 USPQ2d 11385 (2007), the Supreme Court stated that the Federal Circuit erred when it applied the well-known teaching-suggestion-motivation (TSM) test in an overly rigid and formalistic way. According to the Supreme Court, the TSM test is one of a number of valid rationales that could be used to determine obviousness. It is ***not*** the only rationale that may be relied upon to support a conclusion of obviousness.

Rejection of claims 1-5 under 35 U.S.C 103

In response to Applicant's argument that the cited references fail to render obvious "analyzing at least one tag of a received message expressed in a non-negotiated language to determine if the receiving device can process the message," the PTO respectfully disagrees and submits that this is taught by Friedman as cited above.

The cited area in col. 3, for example disclose parsing (interpreted as "analyzing") XML (interpret as non-negotiated language) data stream to reduce memory overhead and increase the speed with which XML data can be provided and used by a client. XML parsers typically read XML or data streams and construct hierarchically structured tree. The XML parser than typically hands off this data structure data to viewers and other applications for processing (see col. 3,

lines 35-40). Col. 3, lines 59-61 further recites "If the client has to wait for the entire message list to be returned from the server, then the client cannot begin to display any portion of the list until all of the data has been received." Therefore it is implied that whether a device can process the data stream is based on how XML data stream is analyzed. It is known in the art that XML inherently possesses tags.

Rejection of claims 6-20 under 35 U.S.C 103

On page 7 of the remark, Applicant stated:

"Dodrill, however, relates to web browser control of audio operations for voice enabled web applications within a framework including hypertext transport protocol (HTTP). (See column 1, lines 14-17). More specifically, as discussed in column 3, lines 9-19, Dodrill discloses employing a *protocol* (HTTP) to access an HTML web page regardless of the configuration of the client. As such, Dodrill teaches using protocols when communicating between clients and servers, (See, for example, the Abstract). **Accordingly, Dodrill does not teach receiving a message without employing a protocol as asserted by the Examiner**."

The Examiner is perplexed by Applicant's remark. The rejection clearly stated that Dodrill teaches receiving a message without employing a ***fixed*** protocol as opposed to a protocol alone as stated by Applicant. Nevertheless, Hind and Dodrill both teaches receiving a message without employing a fixed protocol as claimed. Hind, for example, teaches the use of XML which is a non-negotiated language, which clearly does not use a fixed protocol. Dodrill, on the other hand teaches employing a HTTP to access HTML. When given it's broadest interpretation, a "fixed protocol" is a protocol that is constrained to using a particular type protocol (for

example, TCP/IP). HTTP however can be implemented on top of any other protocol on the network. Therefore, it is broadly interpreted as a non-fixed protocol.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina N. Boutah whose telephone number is 571-272-3908. The examiner can normally be reached on Monday-Friday (9:00 am - 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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